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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS FILED NOV - 7 2007 CLERK, U.S. DISTRICT COURT By _____ Deputy
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ANGELA VALCHO, *on Behalf of*
Herself and All Others Similarly
Situated,

Plaintiff,

vs.

DALLAS COUNTY HOSPITAL
DISTRICT d/b/a PARKLAND HEALTH
& HOSPITAL SYSTEM

Defendant.

Case No. _____

807 CV 1853 - D

Jury Demanded

**REPRESENTATIVE ACTION COMPLAINT FOR
VIOLATION OF THE FAIR LABOR STANDARDS ACT**

COMES NOW the Plaintiff, Angela Valcho, on behalf of herself and all others similarly situated, by and through counsel, and hereby sets forth her Representative Action Complaint for Violation of the Fair Labor Standards Act as follows:

PRELIMINARY STATEMENT

1. Plaintiff Angela Valcho brings this action against Dallas County Hospital District d/b/a Parkland Health & Hospital System (hereinafter referred to as "Parkland") for unpaid overtime compensation and related penalties and damages and for failure to pay its employees for all hours worked. Plaintiff is a former hourly employee of Defendant. Plaintiff alleges, on behalf of herself and all similarly situated employees of Defendant, that Defendant failed and refused to pay her, and all others similarly situated, overtime pay for overtime worked and failed

and refused to pay her and all other similarly situated employees straight time for all hours worked.

2. Defendant's practices are in direct violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.* Plaintiff seeks injunctive and declaratory relief; overtime premiums for all overtime work required, suffered, or permitted by Defendant; straight time premiums for all hours worked and not compensated; liquidated and/or other damages as permitted by applicable law; and attorney's fees, costs, and expenses incurred in this action.

3. Defendant's practice and policy is, and for the past three years has been, to willfully fail and refuse to pay overtime compensation due and owing to Plaintiff and all other similarly situated employees, in violation of the FLSA, and to willfully fail to compensate Plaintiff and all other similarly situated employees for all hours worked while employed by Defendant. Defendant has instituted and carried out an unlawful policy and practice of refusing to pay all such employees for all time worked and refusing to pay all such employees overtime for all hours worked in the work week over forty, notwithstanding that each hourly employee is entitled to overtime pay under the FLSA.

4. Currently and for the last three years, Defendant's employees have worked overtime hours.

JURISDICTION AND VENUE

5. This Court has original federal question jurisdiction, 28 U.S.C. § 1311, because this case is brought under the FLSA, 29 U.S.C. § 201, *et seq.*

6. The Northern District of Texas, Dallas Division, has personal jurisdiction over the defendant because it is doing business in Texas and in this District.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claim occurred in this District.

THE PARTIES

8. Plaintiff Angela Valcho is a resident of Carrollton, Dallas County, Texas. Ms. Valcho was employed by Defendant as a nurse from approximately July 2000 to August 8, 2007. Ms. Valcho regularly worked hours in excess of forty hours per week without receiving overtime compensation as required by federal law. Additionally, Ms. Valcho worked periods of time where she was not compensated at all for the time worked.

9. Defendant Parkland is registered with the state of Texas as a Domestic Corporation. Parkland provides medical services for Dallas County.

REPRESENTATIVE ACTION ALLEGATIONS

10. Plaintiff brings this Complaint as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), on behalf of all persons who were, are, or will be employed by Defendant in hourly labor within three years from the commencement of this action who have not been compensated for all hours worked and/or who have not been compensated at one and one-half times the regular rate of pay for all work performed in excess of forty hours per week.

11. This Complaint may be brought and maintained as an “opt-in” collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), for all claims asserted by Angela Valcho, the Representative Plaintiff, because the claims of Angela Valcho are similar to the claims of the putative plaintiffs of the representative action.

12. Angela Valcho is similarly situated to the putative plaintiffs, has substantially similar job requirements and pay provisions, and was subject to Defendant’s common practice,

policy, or plan of refusing to pay employees for all hours worked and of refusing to pay overtime in violation of the FLSA.

13. The names and addresses of the putative members of the representative action are available from Defendant. To the extent required by law, notice will be provided to said individuals via First Class Mail and/or by the use of techniques and a form of notice similar to those customarily used in representative actions.

FLSA CLAIM

14. Plaintiff Angela Valcho, on behalf of herself and all similarly situated employees of Defendant, realleges and incorporates by reference paragraphs 1 through 13 as if they were set forth again herein.

15. At all relevant times, Defendant has been, and continues to be, an “employer” engaged in the interstate “commerce” and/or in the production of “goods” for “commerce” within the meaning of the FLSA, 29 U.S.C. § 203. At all relevant times, Defendant has employed and/or continues to employ “employee[s],” including Plaintiff and each of the putative members of the FLSA representative action. At all times, Defendant has had gross operating revenues in excess of \$500,000.00 (Five Hundred Thousand Dollars).

16. The FLSA requires each covered employer, such as Defendant, to compensate all non-exempt employees for all hours worked at an hourly rate and compensate all non-exempt employees at a rate of not less than one and one-half the regular rate of pay for work performed in excess of forty hours in a work week.

17. Plaintiff and the putative members of the FLSA representative action are not exempt from the right to receive overtime pay or to be paid for all hours worked under the

FLSA. Plaintiff and the putative members of the FLSA representative action are entitled to be paid compensation for all hours worked and are entitled to be paid overtime compensation for all overtime hours worked.

18. At all relevant times, Defendant has had a policy and practice of failing and refusing to pay its employees for all hours worked and failing and refusing to pay overtime pay to its hourly nursing employees for all hours worked in excess of forty hours per work week.

19. In addition, Plaintiff and the putative members of the FLSA representative action regularly worked through part or their entire lunch break without being compensated for same and had time docked from their pay if they clocked in too early or clocked out too late.

20. As a result of Defendant's failure to compensate its nurses, including Angela Valcho and all similarly situated employees, for all hours worked and its failure to compensate them at a rate of not less than one and one-half times the regular rate of pay for all work performed in excess of forty hours in a work week, Defendant has violated, and continues to violate, the FLSA, 29 U.S.C. §§ 201, *et seq.*, including 29 U.S.C. § 207(a)(1) and § 206(a).

21. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

22. Plaintiff Angela Valcho, on behalf of herself and all similarly situated employees of Defendant, seeks damages in the amount of all respective unpaid straight time for unpaid hours worked and all unpaid overtime compensation for all hours worked in excess of forty per week, plus liquidated damages, as provided by the FLSA, 29 U.S.C. § 216(b), and such other legal and equitable relief as the Court deems just and proper.

23. Plaintiff Angela Valcho, on behalf of herself and all similarly situated employees of Defendant, seeks recovery of all attorneys' fees, costs, and expenses of this action, to be paid by Defendant, as provided by the FLSA, 29 U.S.C. § 216(b).

DEMAND FOR JURY TRIAL

24. Plaintiff hereby demands a jury trial on all causes of action and claims with respect to which she and all members of the proposed representative action have a right to jury trial.

PRAYER FOR RELIEF

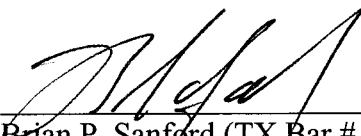
WHEREFORE, Plaintiff, on behalf of herself and all proposed members of the FLSA representative action, prays for relief as follows:

1. Designation of this action as a collective action on behalf of the proposed members of the FLSA representative action and prompt issuance of notice pursuant to 29 U.S.C. §216(b) to all similarly situated members of the FLSA opt-in class apprising them of the pendency of this action and permitting them to assert timely FLSA claims in this action by filing individual Consents To Sue pursuant to U.S.C. §216(b);
2. Designation of Plaintiff Angela Valcho as Representative Plaintiff of the putative members of the FLSA representative action;
3. A declaratory judgment that the practices complained of herein are unlawful under the FLSA, 29 U.S.C. § 201, *et seq.*;
4. An injunction against Defendant and their officers, agents, successors, employees, representatives, and any and all persons acting in concert with Defendant, as provided by law, from engaging in the unlawful practice, policy, and pattern set forth herein;

5. An award of damages, including liquidated damages, to be paid by Defendant;
6. Costs and expenses of this action incurred herein, including reasonable attorneys' fees and expert fees;
7. Pre-Judgment and Post-Judgment interest, as provided by law; and
8. Any and all such other and further legal and equitable relief as this Court deems necessary, just, and proper.

Date: November 5, 2007

Respectfully submitted,



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JS 44 (Rev. 10/06)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
Angela Valcho, on Behalf of Herself and All Others Similarly Situated

DEFENDANTS
Dallas County Hospital District d/b/a Parkland Health & Hospital System

(b) County of Residence of First Listed Plaintiff Dallas **County of Residence of First Listed Defendant** _____
(EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number) Brian P. Sanford, Sheils Winnubst Sanford & Behune, 1701 N. Collins Blvd., Suite 1100, Richardson, Texas 75080, (972) 644-8181 **Attorneys (If Known)** _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Brief description of cause: Suit to recover overtime pay.

VII. REQUESTED IN COMPLAINT: ☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **CHECK YES only if demanded in complaint:** **JURY DEMAND:** ☐ Yes ☐ No

VIII. RELATED CASE(S) PENDING OR CLOSED (See instructions): **JUDGE** _____ **DOCKET NUMBER** _____

DATE 11-6-07 **SIGNATURE OF ATTORNEY OF RECORD** [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ **AMOUNT** _____ **APPLYING IFP** _____ **JUDGE** _____ **MAG. JUDGE** _____